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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 0033-0918P	
		Application Number 10/791,786-Conf. #5328	Filed March 4, 2004
		First Named Inventor Hirofumi ODA et al.	
		Art Unit 2622	Examiner T. J. Henn
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <p><input type="checkbox"/> applicant /inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>29,271</u></p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34. _____</p> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p> <p><input type="checkbox"/> *Total of <u>1</u> forms are submitted.</p>			

#52,327


Signature

Charles Gorenstein
Typed or printed name

(703) 205-8000
Telephone number

April 30, 2008
Date



Docket No.: 0033-0918P
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Hirofumi ODA.

Application No.: 10/791,786

Confirmation No.: 5328

Filed: March 4, 2004

Art Unit: 2622

For: IMAGE PICK-UP DEVICE INCLUDING
CAMERA ANGLED WITH RESPECT TO A
DISPLAY DEVICE

Examiner: T. J. Henn

REQUEST FOR A PRE-APPEAL BRIEF CONFERENCE

MS AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DATE: April 30, 2008

Sir:

INTRODUCTORY COMMENTS

Applicants respectfully request review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed concurrently with a Notice of Appeal.

The review is being requested for the reasons set forth on the attached five (4) Sheets.

ARGUMENTS

The pending rejections exhibit clear factual and legal errors with respect to the cited reference. The specific errors relied upon in this Pre-Appeal Brief Request for Review include the lack of a *prima facie* basis for rejecting independent claims 1 and 15 under 35 U.S.C. § 102(e) over U.S. Patent Publication No. 2003/0125080 to Shimamura. Shimamura fails to teach each and every element of independent claims 1 and 15.

For a Section 102 rejection to be proper, the cited reference must teach or suggest each and every claimed element. *See M.P.E.P. 2131; M.P.E.P. 706.02*. Thus, if the cited reference fails to teach or suggest one or more elements, then the rejection is improper and must be withdrawn.

In this instance, Shimamura fails to teach or suggest each and every claimed element. For example, independent claim 1 recites, *inter alia*, "a display device displaying a picture taken from the perspective of the camera and arranged at a surface of said main body on the same side as said camera." *Emphasis added*. It is respectfully submitted that Shimamura fails to teach or suggest the recited feature of independent claim 1.

Shimamura discloses a portable cellular phone (1) with a foldable housing (2). The foldable housing includes an upper housing (17) and lower housing (18) connected via a hinge. The housing includes an auxiliary display section (mirror) (11) and a lens window (21), camera lens (22) and an image pickup device (CCD) (23). See Figs. 1, 3 and 7 and paragraphs [0069] - [0073]. The optical axis of the camera lens (22) is set so that it is slanted slightly downward relative to a normal of a surface of the auxiliary display section (11). See Fig. 7 and paragraph [0074].

The Advisory Action dated March 27, 2008 states, “Shimamura discloses an auxiliary display device which displays an image which ‘matches an area in which the photograph is being taken.’” See page 2 of the Advisory Action. It is respectfully submitted that the Advisory Action’s statement is erroneous. Even if an image matches an area, the picture is still not taken from the perspective of the camera because the auxiliary display section (11), which appears to be a mirror, and the camera (21-23) have different perspectives and the perspective increasingly varies as the subject is located further away from the camera. See Figs. 1, 3 and 7 of Shimamura. Fig. 7 of Shimamura provides an excellent example of the different perspectives of the camera and the auxiliary display section (11).

Applicant does not claim an image that “matches the area in which the photograph is taken” as suggest by the Office Action. Applicant claims an image taken from the perspective of the camera. As shown by the following definition from the Merriam-Webster Online Dictionary (www.m-w.com), the relevant meaning of “perspective,” the one that would be understood by one of ordinary skill in the art seeing the phrase “from the perspective of the camera,” is “point of view.” With reference to Fig. 7 of Shimamura, it can be seen that the image in the mirror (11) will be from an upward looking perspective, toward a person’s chin, for example (if the circle and the triangle are taken to represent a person’s head and body, respectively). The camera (21-23) on the other hand will capture an image from a somewhat downwardly directed point of view. These are two different perspectives. Furthermore, it appears that the mirror only approximately matches the area when the operator (photographer) takes a photograph of him/herself. See paragraph [0074] of Shimamura. It appears the camera and mirror generally do not match because the camera and mirror have different perspectives.

Independent claim 15 recites, *inter alia*, “a first display device including a display surface displaying a picture taken by said camera and arranged on said first side,” *Emphasis added*. It is respectfully submitted that Shimamura fails to teach or suggest the recited features of independent claim 15.

The Advisory Action states, “since the photograph areas match, the displayed image can be said to [be] equivalent to a picture taken from the perspective of the camera.” It is respectfully submitted that the Advisory Action’s statement is erroneous. Shimamura’s mirror (11) displays an image, but as discussed above in connection with claim 1, the image in the mirror is not the same as the picture taken by the camera - the images will be from two different points of view. At best, it appears the mirror approximately displays a similar image as the camera when the operator (photographer) takes a picture of himself/herself. See paragraph [0074] of Shimamura. However, it appears the camera and mirror generally do not match because the camera and the mirror have different points of view. Shimamura does not show a display surface displaying a picture taken by a camera as recited in claim 15, and claim 15 is submitted to be allowable over Shimamura for at least this reason.

Therefore, for at least these reasons, independent claims 1 and 15 are distinguishable from Shimamura. For at least the reasons stated with respect to claims 1 and 15 and further in view of the novel features recited therein, the dependent claims are also distinguishable from the applied references.

Reserve right to appeal other errors

While Applicants believe the above points represent the clearest errors made by the Office. Applicants reserve the right to appeal on other bases and errors. Applicants will address

such issues on appeal should the appeal of this case proceed after the Office's consideration of this paper.

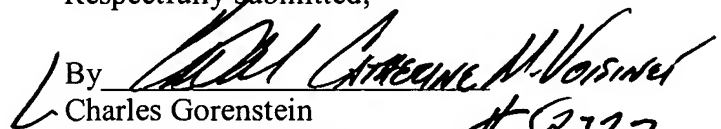
Conclusion

In view of the foregoing, Applicants respectfully submit that the application is in condition for allowance. Favorable reconsideration and prompt allowance are earnestly solicited. Should the Examiner believe that anything further would be desirable to place this application in better condition for allowance, the Examiner is invited to contact Obert H. Chu (Reg. No. 52,744) at (703) 205-8000 to schedule a Personal Interview.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

Dated: April 30, 2008

Respectfully submitted,

By 
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